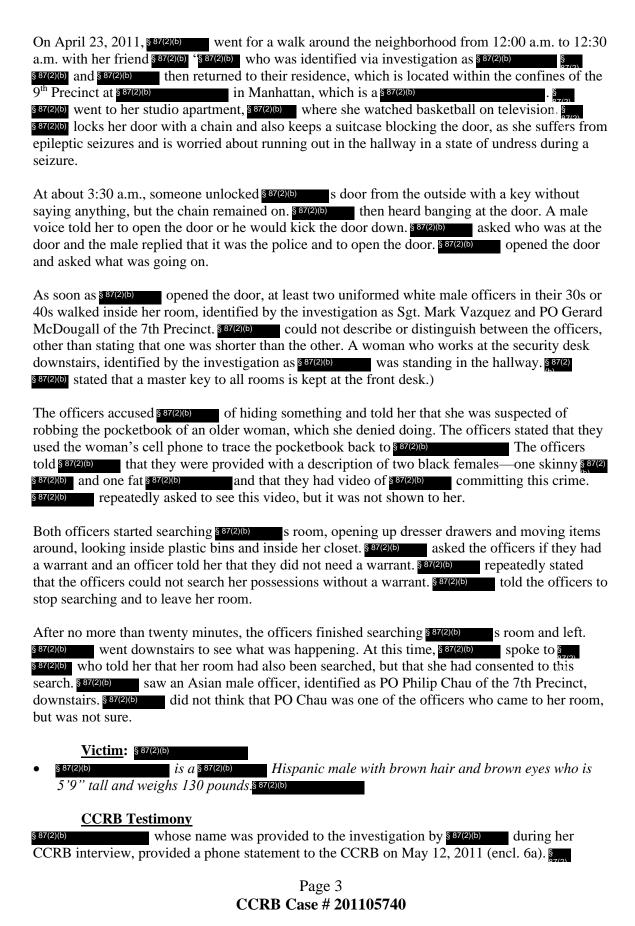
CCRB INVESTIGATIVE RECOMMENDATION

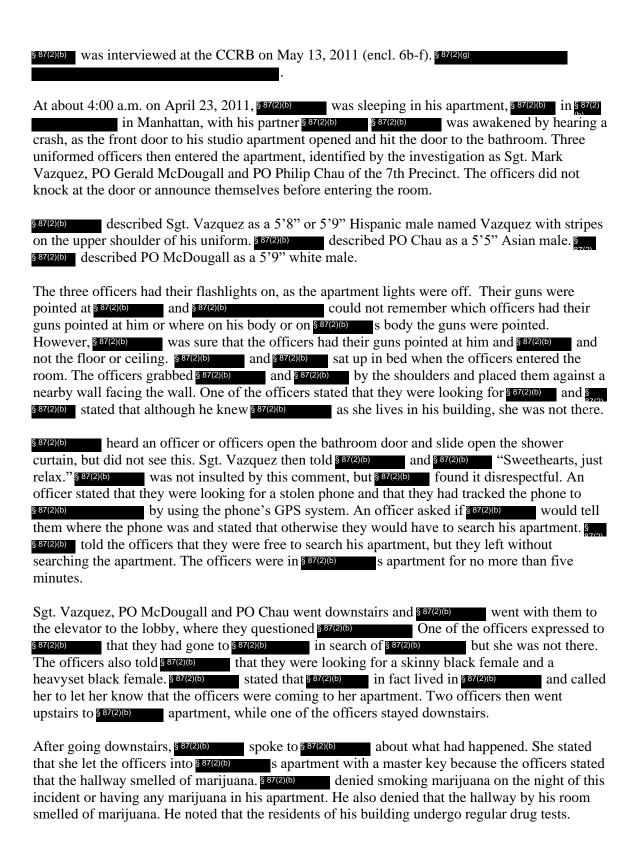
Investigator:		Team:	CCI	RB Case #:	\square	Force	$\overline{\mathbf{V}}$	Discourt.	☐ U.S.
Jennifer Jarett		Team # 1		201105740	☑	Abuse	$\overline{\checkmark}$	O.L.	☐ Injury
Incident Date(s)		Location of Incid	lent:		F	Precinct:	18	Mo. SOL	EO SOL
Saturday, 04/23/2011 3:30 AM		§ 87(2)(b)				09	10	/23/2012	10/23/2012
Date/Time CV Reported		CV Reported At:	Hov	v CV Reported	:	Date/Time	Rece	eived at CCl	RB
Thu, 05/05/2011 1:37 PM		CCRB	In-p	erson		Thu, 05/05	/201	1 1:37 PM	
Complainant/Victim	Type	Home A	Address						
Witness(es)		Home A	Address						
Subject Officer(s)	Shield	TaxID	Cor	nmand					
1. SGT Mark Vazquez	02696	933447	007	PCT					
2. POM Gerald McDougall	00124	937060	007	PCT					
Witness Officer(s)	Shield N	o Tax No	Cmc	l Name					
1. POM Philip Chau	23362	941539	007	РСТ					
Officer(s)	Allegatio	n				Inve	stiga	tor Recon	nmendation
A.SGT Mark Vazquez	Abuse: S of § 87(2)(b)	gt. Mark Vazquez § 87(2)(b)	authorized and ^{§ 87(2)(t}	the entry and in Manhatta	sear ın.	ch			
B.SGT Mark Vazquez	Discourte rudely to	esy: Sgt. Mark Vaz § 87(2)(b)	zquez spok	e obscenely an	d/or				
C.SGT Mark Vazquez		gt. Mark Vazquez property.	threatened	to damage § 870	(2)(b)				
D.SGT Mark Vazquez	Force: Sg	gt. Mark Vazquez j nd ^{§ 87(2)(b)}	pointed his	gun at § 87(2)(b)					
E.POM Gerald McDougall		O Gerald McDoug nd ^{§ 87(2)(b)}	gall pointed	his gun at § 87(2)(b)				
F.SGT Mark Vazquez	Off. Lang	guage: Sgt. Mark V and 8870 on.		ade remarks to sed upon their		ıal			
§ 87(2)(g), § 87(4-b)									

Case Summary

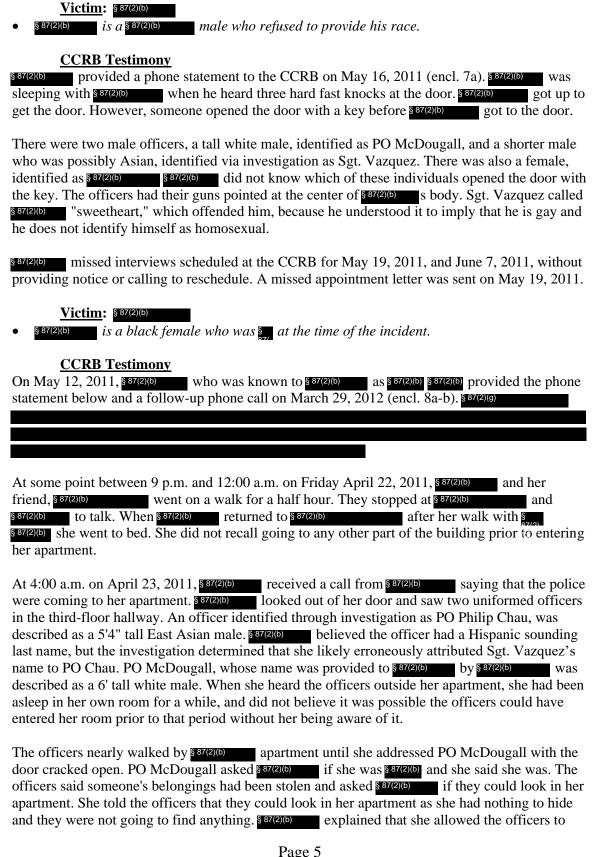
filed the following complaint in-person at the CCRB on May 5, 2011 (encl. 4a-c) At about 3:30 a.m. on April 23, 2011, Sgt. Mark Vazquez, PO Gerald McDougall and PO Philip Chau of the 7th Precinct went to the building in which \$67(2)(5) is a resident, \$67(2)(5) in Manhattan, while investigating a past larceny. The following allegations resulted:
Allegation A- Abuse of Authority: Sgt. Mark Vazquez authorized the entry and search of \$87(2)(b) and \$87(2)(b) in Manhattan. Allegation B - Discourtesy: Sgt. Mark Vazquez spoke obscenely and/or rudely to \$87(2)(b)
Allegation C- Abuse of Authority: Sgt. Mark Vazquez threatened to damage \$87(2)(5) s property.
§ 87(2)(g)
·
Allegation D- Force: Sgt. Mark Vazquez pointed his gun at \$87(2)(b) and \$87(2)(c)
Allegation E- Force: PO Gerald McDougall pointed his gun at \$87(2)(b) and \$87(2)
Allegation F- Offensive Language: Sgt. Mark Vazquez made remarks to \$87(2)(b) based upon their sexual orientation.
§ 87(2)(g)
§ 87(2)(g), § 87(4-b)
Although mediation was offered to \$87(2)(b) she declined. This case was reassigned to ASI Jennifer Jarett on January 12, 2012, after Inv. Wasserman's departure from the agency.
Results of Investigation
Civilian Statements:
Complainant/Victim: \$87(2)(b) • \$87(2)(b)
CCRB Testimony was interviewed at the CCRB as a walk-in complainant on May 5, 2011 (encl. 4a-c, 5c-h). At that time, she provided the CCRB with a copy of a written statement that she wrote on April 25, 2011, \$87(2)(9)

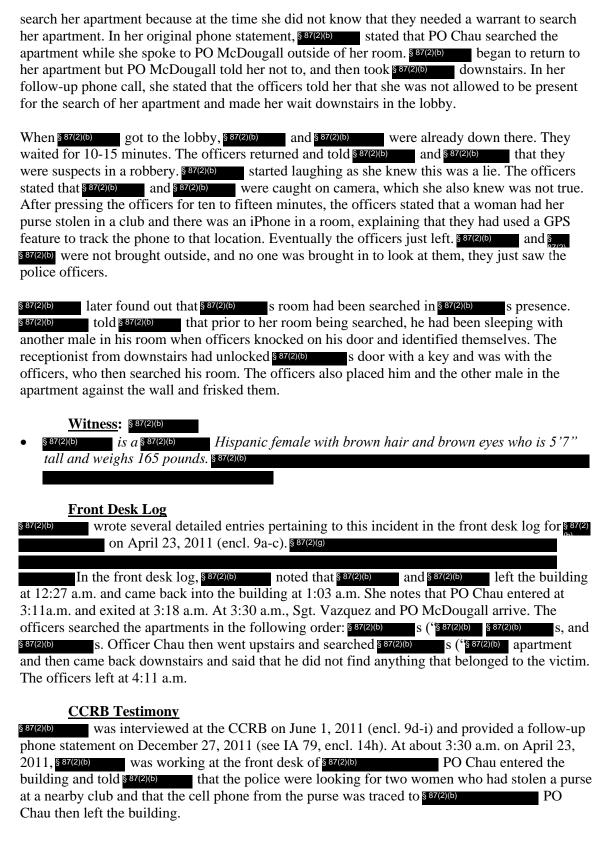
Page 2 CCRB Case # 201105740



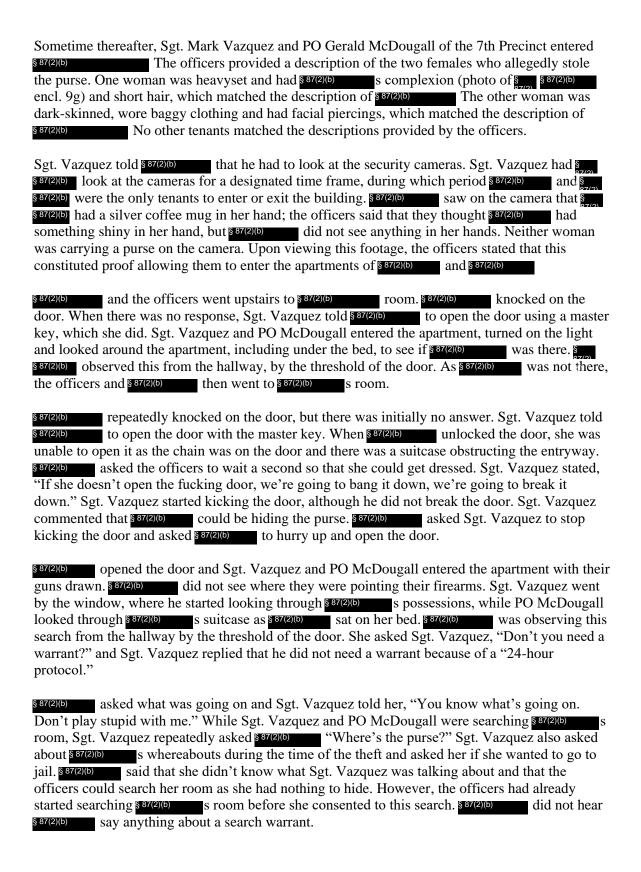


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CCRB Case # 201105740



officer, whom Sgt. Vazquez stated told him that there was also a male Puerto Rican with a moustache present for the theft. \$87(2)(b) said something about \$87(2)(b) said said said said said said said said
After searching \$87(2)(b) s room for about ten minutes, the officers ordered \$87(2)(b) to go downstairs and they proceeded to \$87(2)(b) s room. When they arrived at the door to \$87(2)(b) s room, \$87(2)(b) knocked on the door. Sgt. Vazquez told her that he smelled marijuana and to open the door without knocking. \$87(2)(b) also smelled marijuana in the hallway by \$87(2)(b) s door, but in her CCRB interview noted that the smell was in the hallway directly outside of two apartments, and the smell could have been emanating from the other room. \$87(2)(b) stated that \$87(2)(b) had nothing to do with this incident and she refused to open the door. Sgt. Vazquez repeatedly told \$87(2)(b) to open the door and she eventually did so. When PO McDougall and Sgt. Vazquez entered the apartment, \$87(2)(b) was sleeping with another male, identified as \$87(2)(b)
The officers woke \$87(2)(b) and \$87(2)(b) and had \$87(2)(b) get against the wall, where either Sgt. Vazquez or PO McDougall patted him down. \$87(2)(b) did not think that they frisked \$87(2)(b) The officers did not have their guns drawn when they entered \$87(2)(b) s apartment. Sgt. Vazquez asked \$87(2)(b) about his whereabouts during this incident, the current whereabouts of \$87(2)(b) and about the purse. After speaking to \$87(2)(b) the officers told him to go downstairs. \$87(2)(b) did not hear either officer refer to \$87(2)(b) and \$87(2)(c) a
After exiting \$87(2)(b) s room, the officers went downstairs and checked the community room to see if \$87(2)(b) was there, but she was not. PO Chau re-entered the building, along with the woman whose purse was stolen, who was described as a 5'3" or 5'4" Asian female with long dark hair and a petite build, who was wearing high heels. This woman waited in an office downstairs, out of the view of the tenants. A bouncer from the club also came to \$87(2)(b) but did not enter the building. Neither the bouncer nor the victim ever looked at \$87(2)(b) or \$87(2)(b)
went up to \$87(2)(b) room, while Sgt. Vazquez and \$87(2)(b) stayed downstairs. When later went upstairs, she saw \$87(2)(b) room the second time the officers went there. After further questioning the tenants downstairs about what happened, the officers asked \$87(2)(b) for the tenants' information and an unknown officer took a photo of \$87(2)(b) with his cell phone camera. All three officers then left the building.

NYPD Statements:

Subject Officer: SGT. MARK VAZQUEZ

- Sergeant Mark Vazquez is a \$87(2)(b) -old Hispanic male with brown hair and brown eyes who is 5'11" tall and weighs 175 pounds.
- Sgt. Vazquez worked from 9:30 p.m. on April 22, 2011, to 6:27 a.m. on April 23, 2011. Sgt. Vazquez was in uniform and working as cabaret sergeant with PO McDougall in unmarked vehicle no. 87(2) which is a black Chevrolet Impala.

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Memo Book

Sgt. Vazquez had the following memo book entries relating to this incident (encl. 10 a-c). At 2:40 a.m.: Larceny in progress at 133 Essex Street. At 4:00 a.m.: Complaint Report and two Stop and Frisk Reports filled out.

CCRB Testimony

Sgt. Vazquez was interviewed at the CCRB on August 18, 2011 (encl. 10d-f). At about 2:40 a.m. on April 23, 2011, a female complainant, identified by the complaint report completed by PO Chau as \$87(2)(6) , came to the 7th Precinct stationhouse and stated that her iPhone, which had been in her bag, was stolen from the Foundation Nightclub at 133 Essex Street in Manhattan. Sgt. Vazquez was not sure if \$87(2) whole purse was stolen or just her iPhone. PO Chau spoke to \$87(2) Sgt. Vazquez then went to the Foundation Nightclub to see if they had any video footage of the larceny and to interview the bouncers.

The nightclub bouncers provided Sgt. Vazquez with a description of two black female suspects, one heavyset and one thin. had not seen these individuals. Sgt. Vazquez did not know how the bouncers obtained the description of these two black females and was not sure if the bouncers stated that they saw two black females steal the iPhone. He thought that the bouncers noticed these two females leave the club at approximately the same time that had approached them to report her purse stolen. Sgt. Vazquez noted that Foundation Nightclub has a predominantly Asian clientele.

had an iPhone application called iPhone tracker that shows where an iPhone is located. Using the computer at the station house, they discovered that [87(2)] iPhone was located at in Manhattan. This tracker did not note where in the building the phone was located. Sgt. Vazquez and PO McDougall proceeded to [87(2)] approximately 11 blocks and .9 miles away.

Sgt. Vazquez went inside \$87(2)(b) and spoke to the woman behind the front desk, identified by the investigation as \$87(2)(b) Sgt. Vazquez reviewed the security camera footage from \$87(2)(b) The video showed two females matching the description provided by the bouncers, identified by the investigation as \$87(2)(b) and \$87(2)(b) enter the building. Sgt. Vazquez did not remember exactly when they entered the building, but thought it was approximately 1:30 a.m. or 2:00 a.m. Sgt. Vazquez did not remember if \$87(2)(b) and \$87(2)(c) and \$87(2)(c) and \$87(2)(c) and \$87(2)(c) are the building are the building and \$87(2)(c) are the building are the building and \$87(2)(c) are the building are the bu

Sgt. Vazquez asked \$87(2)(b) and \$87(2)(b) were in their rooms and she responded that they were. Sgt. Vazquez called the building administrator, identified by the investigation as \$87(2)(b) to see what the rules were for waking the tenants and conducting a show-up with the bouncer. \$\frac{8}{2}(3)(b)\$ told Sgt. Vazquez that the administration has control over the tenants' rooms and gave Sgt. Vazquez permission to wake \$87(2)(b) and \$\frac{8}{2}(2)(c)\$ and \$\frac{8}{2}(2)(c)\$ when asked if they discussed whether he could enter the rooms, Sgt. Vazquez stated that he did not recall the specific points he discussed with \$\frac{8}{2}(2)(c)\$ Sgt. Vazquez then went upstairs with PO McDougall and \$\frac{8}{2}(2)(c)\$ leaving PO Chau with \$\frac{8}{2}(2)(c)\$ in the security room downstairs. Sgt. Vazquez stated that he intended to have \$\frac{8}{2}(2)(c)\$ and \$\frac{8}{2}(2)(c)\$ come downstairs for a show-up; if this show-up had positive results he would then turn the matter over to the detective squad.

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Sgt. Vazquez, PO McDougall and \$87(2)(b) went first to the room of a skinny black female,
identified by the investigation as \$87(2)(b) Sgt. Vazquez knocked on the door and either
or \$87(2)(b) opened the door, which had a chain. Sgt. Vazquez did not direct
to open the door. \$87(2)(b) then undid the chain. Sgt. Vazquez asked \$87(2)(b) if she
was in a club and she said no. Sgt. Vazquez told \$87(2)(b) that they had her on video coming
into the building and asked her to come downstairs and participate in a show-up. The officers
stood by the doorway without crossing the threshold of the door as \$87(2)(b) got dressed. They
never entered § 87(2)(b) s apartment or searched through her possessions.
After going to \$87(2)(b) s apartment, \$87(2)(b) mistakenly took Sgt. Vazquez and PO
McDougall to an apartment containing two males, identified by the investigation as §87(2)(b)
and \$87(2)(b) The officers knocked on the door of this apartment and had \$87(2)(b)
open the door to this room using her keys. The officers did not step over the threshold into this
apartment, but only stood at the door. Sgt. Vazquez did not remember if there was any smell of
marijuana associated with this room. Sgt. Vazquez did not have any reason to suspect that there
were any males involved in the larceny. \$87(2)(b) and \$87(2)(b) told the officers that
was upstairs and they proceeded to this apartment.
The officers next went to \$87(2)(b) apartment. They knocked on the door and \$87(2)(b)
opened the door. When \$87(2)(b) and \$87(2)(b) came down to the lobby for a show-up, the
bouncer confirmed that they were not the suspects. As the show-up had negative results, Sgt.
Vazquez directed PO McDougall and PO Chau to obtain contact information for \$87(2)(b) and
Either PO McDougall or PO Chau filled out and filed Stop and Frisk Reports.

There was never any discussion of whether Sgt. Vazquez required a search warrant, as he never entered or searched any of the apartments. Sgt. Vazquez never stated that his actions were authorized by a "24-hour protocol" and has never heard of a 24-hour protocol that would authorize him to enter peoples' rooms. Sgt. Vazquez never used any profanity during this incident. He never threatened to break down the door to any apartments. Sgt. Vazquez never kicked the door to \$\frac{837(2)(0)}{2}\$ s apartment. He never hit or banged on the door to any of the apartments. Sgt. Vazquez never made reference to the sexuality of \$\frac{837(2)(0)}{2}\$ and \$\frac{837(2)(0)}{2}\$ or called them "sweethearts." He did not hear any other officer refer to them as "sweethearts." Sgt. Vazquez never told \$\frac{837(2)(0)}{2}\$ that she could be arrested or threatened to arrest any civilians. Neither Sgt. Vazquez nor any other officer drew their firearm during this incident as there was never any reason to draw their firearms.

Subject Officer: PO GERALD McDOUGALL

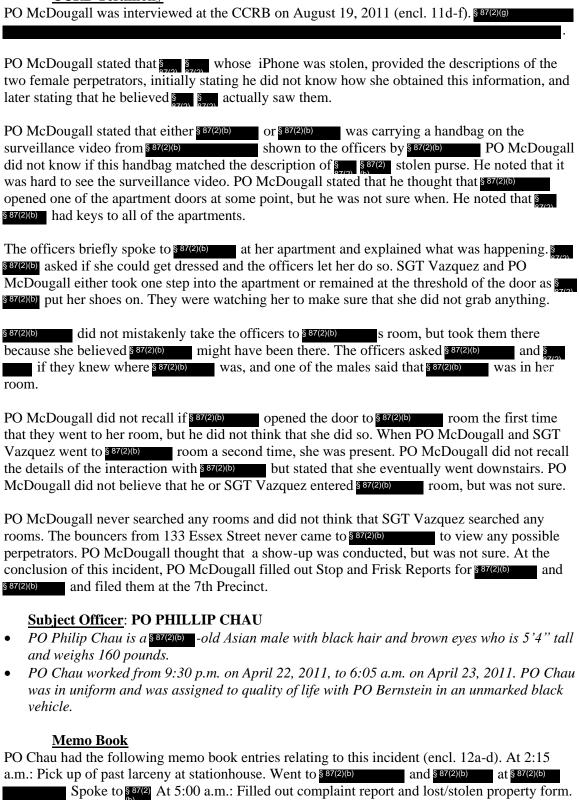
- PO Gerald McDougall is a \$87(2)(b) -old white male with brown hair and blue eyes who is 6'3" tall and weighs 230 pounds.
- PO McDougall worked from 9:30 p.m. on April 22, 2011, to 6:05 a.m. on April 23, 2011. PO McDougall was in uniform and assigned to conditions with Sgt. Vazquez in a marked vehicle.

Memo Book

PO McDougall had the following memo book entries relating to this incident (encl. 11a-c). At 2:50 a.m.: Pickup of a larceny in progress at 133 Essex Street. At 5:00 a.m.: Complaint report by PO Chau and two UF-250s completed.

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CCRB Testimony



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Complaint Report PO Chau filled out a UF-61 complaint report for a grand larceny that occurred inside the Foundation night club at 1:00 a.m. on April 23, 2011 and was reported at 4:30 a.m. (encl. 12e-f). The report states that \$\frac{1}{57(2)}\$ got up to dance and when she returned to the bench, she noticed that her purse was taken by unknown people. There were "cameras at location." A canvass was conducted with negative results. "Mobile Me" application on the phone showed the iPhone at \$\frac{1}{57(2)}\$ and \$\frac{1}{57(2)}\$ and \$\frac{1}{57(2)}\$ Det. Oliver notified nightwatch and a lost/stolen property form was filled out.
CCRB Testimony PO Chau was interviewed at the CCRB on August 19, 2011 (encl. 12g-h). 887(2)(9)
When PO Chau ran the computerized iPhone tracker application, it tracked \$\frac{\mathbb{S}}{\mathbb{S}}(2)\$ iPhone to \$\frac{\mathbb{S}}{\mathbb{S}}(2)(b)\$ and The only building located at that corner was PO Chau stated that the bouncers at the club did not provide a physical description of possible perpetrators of the larceny.
PO Bernstein stayed in the car while PO Chau, PO McDougall and Sgt. Vazquez went inside PO Chau spoke to the receptionist, identified via investigation as introducing himself. After speaking with PO Chau went outside with PO C
PO Chau remained downstairs with [57(2)] and never went upstairs. PO Chau did not know where PO McDougall and Sgt. Vazquez went while he was waiting downstairs. He did not speak to anyone from other than and did not conduct any investigation at this location. He was not aware of what steps, if any, PO McDougall and Sgt. Vazquez took to investigate the stolen iPhone and did not know if they entered or searched any apartments.
NYPD Documents Stop, Question, and Frisk logs The 9 th Precinct Stop, Question, and Frisk Report log did not have anything documenting this incident (encl. 13a-b). The request to the 7 th Precinct regarding any Stop, Question, and Frisk Reports documenting this incident had negative results (encl. 16h).
Other Evidence According to Google maps, the distance between the club and \$87(2)(b) is .9 miles and approximately eleven blocks (encl. 1qq-rr)
Status of Civil Proceedings • § 87(2)(b) and § 87(2)(b) had not filed a Notice of
Claim with the City of New York as of December 2, 2011, with regard to this incident (encl. 15j).
[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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Civilian CCRB Histories

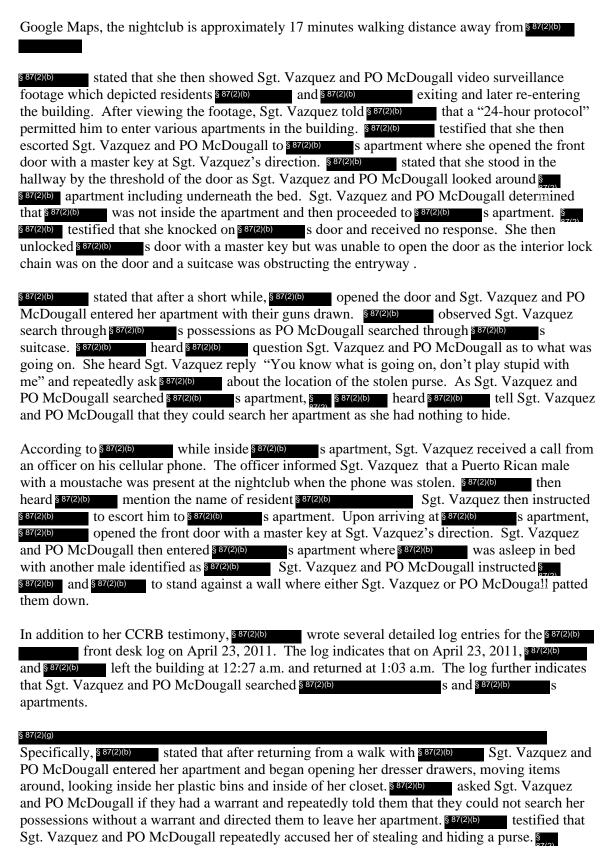
• This is the first CCRB complaint filed by § 87(2)(b) or § 87(2)(b) (encl. 3a-d).

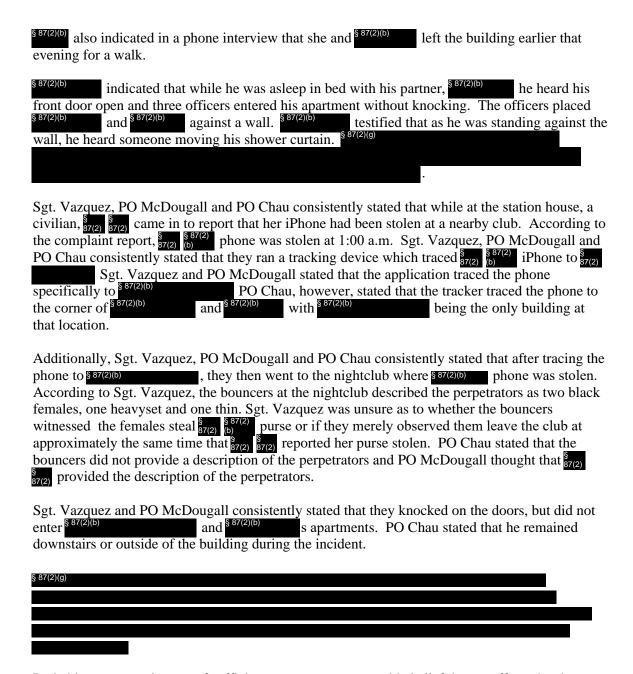
Subject Officer CCRB Histories

- Sgt. Vazquez has been a member of the service for eight years and there are no substantiated CCRB allegations against him (encl. 2a-b).
- PO McDougall has been a member of the service for six years and there are no substantiated CCRB allegations against him (encl. 2c).

Conclusion

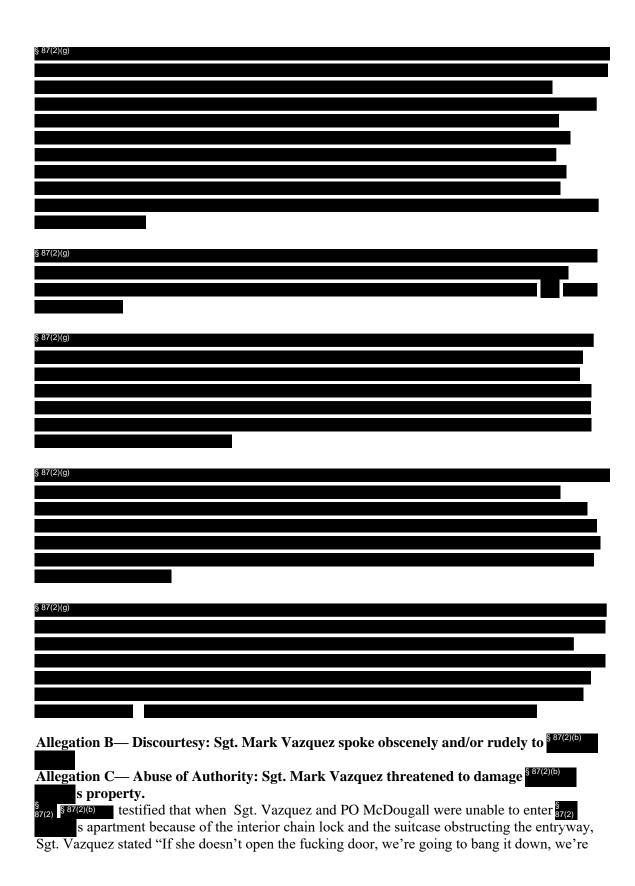
Identification of Subject Officers
§ 87(2)(g)
§ 87(2)(g)
allocate that all three officers entered his apartment with their game pointed at him and
alleged that all three officers entered his apartment with their guns pointed at him and \$87(2)(6) \$87(2)(9)
§ 87(2)(g)
Allegations Not Pleaded
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
Investigative Findings and Recommendations
Allegation A—Abuse of Authority: Sgt. Mark Vazquez authorized the entry and search of ser(2)(b) and ser(2)(b) in Manhattan.
testified that on April 23, 2011 she was working at the front desk of §87(2)(b)
when Sgt. Vazquez and PO McDougall entered the building. Sgt. Vazquez and PO
McDougall provided 887(2)(b) with a description of two females that had stolen a purse at a
nearby club. One of the females was described as heavyset with \$87(2)(b) s complexion and
short hair. §87(2)(b) indicated that this description matched that of resident §87(2)(b) The other female was described as dark-skinned, wore baggy clothing and had facial piercings.
§87(2)(b) indicated that this description matched that of resident, §87(2)(b) According to





Probable cause requires proof sufficient to warrant a reasonable belief that an offense has been or is being committed or that evidence of a crime may be found in certain place. People v. Bigelow, 66 N.Y.2d 417, 423 (1985) (Encl. la-1i). If probable cause is based upon the hearsay statement of an informant, it must be established that the informant is reliable and had a sufficient factual basis for his or her knowledge. People v. Voner, 74 A.D.3d 1371, 1373 (App. Div. 2d Dep't. 2010) (Encl. 1x-bb); People v. Parris, 83 N.Y.2d 342, 350 (1994) (Encl. 1j – 1s). Probable cause alone, however, does not justify a warrantless entry into a person's home. People v. Bero, 139 A.D.2d 581, 584 (App. Div. 2d Dep't. 1988) (citing Payton v. New York, 445 U.S. 573) (Encl. 1nn-oo). A warrantless entry into a person's home may be authorized when in addition to probable cause exigent circumstances exist. Id.

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going to break it down." [887(2)(b) and testified that prior to opening the front door, she heard a male voice state that if she did not open the door, he would kick it down.
§ 87(2)(g)
Patrol Guide 203-09 requires that officers be courteous and respectful when interacting with the public (Encl. 1ss). Courts have consistently affirmed that an officer may not use profanity gratuitously, or to intimate or retaliate or show a lack of respect for a citizen, unless such profanity is used to secure a civilian's cooperation or for other legitimate law enforcement ends. Police Department v. Dukes, OATH Index Nos. 1137-39/00 (Apr. 26, 2000) (Encl. 1tt-bbb).
§ 87(2)(g)
·
Allegation D- Force: Sgt. Mark Vazquez pointed his gun at \$87(2)(b) and \$87(2) Allegation E- Force: PO Gerald McDougall pointed his gun at \$87(2)(b) and \$87(2) \$87(2)(9)
had their guns drawn when they entered the apartment. \$87(2)(b) could not recall where on his or \$87(2)(b) s body the officers pointed the guns. \$87(2)(b) indicated that the officers had their guns pointed at the center of his body. \$87(2)(b) however, testified that Sgt. Vazquez and PO McDougall drew their guns when they entered \$87(2)(b) s apartment.
Allegation F- Sgt. Mark Vazquez made remarks to \$87(2)(b) and and \$87(2)(b) based upon their sexual orientation.
§ 87(2)(b) and § 87(2)(b) consistently stated that Sgt. Vazquez referred to them as sweethearts,
which \$87(2)(b) found offensive. \$87(2)(b) however, when asked if she heard Sgt. Vazquez refer to \$87(2)(b) or \$87(2)(b) as "sweethearts" said no. Sgt. Vazquez and PO McDougall denied calling or hearing \$87(2)(b) or \$87(2)(b) called "sweethearts." \$87(2)(g)

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§ 87(2)(g), § 87(4-b)			
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Team: 1			
Investigator:			_
Signature	Print	Date	
Supervisor:			_
Title/Signature	Print	Date	
Reviewer:			
Title/Signature	Print	Date	
Reviewer:			
Title/Signature	Print	Date	